

Message Text

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ORIGIN DLOS-06

INFO OCT-01 NEA-10 ISO-00 FEA-01 ACDA-07 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00
DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-01
INR-07 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05
NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15
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NEA/RA:MR. MORAN
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DOI:MR. RATINER

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KUWAIT PLEASE PASS BAGHDAD

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: REGIONAL ARAB LOS MEETING, CAIRO, 18 JAN-
UARY

REF: (A) STATE 03591 (B) STATE 303070

1. DEPARTMENT UNDERSTANDS THAT ARAB REGIONAL LOS MEETING WILL COMMENCE 18 JANUARY. WHILE IT IS NOT CLEAR WHAT THE EMPHASIS OF MEETING WILL BE, WE ASSUME THAT IT WOULD BE, AT LEAST IN PART, IN PREPARATION FOR THE GENEVA, FEBRUARY 28-MARCH 11, INFORMAL EVENSEN GROUP CONSULTATIONS ON CERTAIN COMMITTEE I MATTERS, I.E., THE SYSTEM OF EXPLOITATION OF DEEP SEABED MINERAL RESOURCES (REF A).

2. THE DEPARTMENT BELIEVES THAT THIS EVENSEN GROUP MEETING IS AN IMPORTANT STEP IN PREPARING FOR THE MAY SESSION OF THE LOS CONFERENCE ON THIS MOST DIFFICULT AND DEADLOCKED ISSUE. CERTAIN ARAB STATES HAVE BEEN OUR MOST EXTREME OPPONENTS ON THE DEEP SEABED QUESTION. THIS MAY RELATE TO THEIR CONCERNS ABOUT PETROLEUM, ALTHOUGH WE BELIEVE MOST PETROLEUM OFF SHORE WILL BE ON THE CONTINENTAL SHELF AND NOT ON THE DEEP SEABED. FOR SOME THEIR OBSTINANCY MAY RELATE TO THIRD WORLD POLITICS AND THE NEW INTERNATIONAL ECONOMIC ORDER.

3. SUBJECT TO PARA 10 BELOW AMBASSADOR OR OTHER SENIOR EMBOFF IS REQUESTED TO APPROACH HOST GOVERNMENT AT APPROPRIATE LEVEL AND MAKE THE POINTS CONTAINED BELOW REGARDING DEEP SEABED MINING, THE ECONOMIC ZONE AND CONFIDENTIAL

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SCIENTIFIC RESEARCH. SHOULD HOST GOVERNMENT INQUIRE AS TO COMPOSITION OF THE U.S. DELEGATION TO THE EVENSEN MEETING YOU MAY STATE THAT WE WILL PROVIDE THIS INFORMATION TO THEM AS SOON AS POSSIBLE. YOU MAY FURTHER NOTE THAT ALTHOUGH THE DEPARTMENT CANNOT YET SPEAK FOR THE NEW ADMINISTRATION, THE U.S. LOS POSITION HAS BEEN BIPARTISAN IN NATURE.

4. DEEP SEABED MINING TALKING POINTS:
LACK OF AGREEMENT ON A REGIME AND MACHINERY FOR DEEP SEABED MINING IS A KEY OBSTACLE TO THE SUCCESSFUL CONCLUSION OF A COMPREHENSIVE LOS TREATY WHICH ACCOMMODATES THE INTERESTS OF ALL STATES. THE U.S. HAS MADE A SERIOUS EFFORT THROUGH A NUMBER OF ITS PROPOSALS MADE LAST YEAR TO FIND AN ACCEPTABLE COMPROMISE, ONE THAT IS FAIR TO BOTH DEVELOPED AND DEVELOPING STATES, TO CONSUMER AND PRODUCER STATES. THE BENEFITS OF THE RESOURCES OF THE DEEP SEABED WILL ONLY BE REALIZED IF EXPLOITATION TAKES PLACE UNDER A SYSTEM WHICH GIVES ASSURED ACCESS TO ALL STATES AND THEIR NATIONALS. AGREEMENT ON SUCH ASSURED ACCESS IS ESSENTIAL.

--WE ALSO APPRECIATE THE DESIRE OF MANY STATES TO ENSURE THAT THE INTERNATIONAL AUTHORITY BE A DEEP SEA-

BED MINER. THUS, AS PART OF A SYSTEM OF ASSURED ACCESS, WE PROPOSED LAST SPRING A SECOND TRACK OF A PARALLEL SYSTEM OF EXPLOITATION TO ALLOW DEVELOPMENT OF THE SEABEDS BY THE ENTERPRISE.

--IN RESPONSE TO THE CONCERNS OF MANY COUNTRIES THAT THE OPERATING ARM OF THE AUTHORITY (THE ENTERPRISE) IN FACT BE VIABLE, SECRETARY KISSINGER THEN FURTHER PROPOSED AT THE CLOSE OF THE SUMMER SESSION MEASURES TO ENSURE THAT THE ENTERPRISE RECEIVES THE FINANCING TO BE VIABLE.

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--OUR PROPOSAL REGARDING THE ENTERPRISE IS DEPENDENT UPON ASSURED ACCESS FOR STATES AND THEIR NATIONALS TO MINE THE DEEP SEABED. THIS INCLUDES DECISION MAKING APPARATUS, WHOSE MEMBERSHIP VOTING, FUNCTION AND POWERS REFLECTS THE ECONOMIC INTERESTS INVOLVED.

--IT MUST BE RECOGNIZED THAT THERE ARE LIMITS BEYOND WHICH OUR GOVERNMENT CANNOT GO. WE BELIEVE THAT OUR PROPOSALS ARE A REASONABLE AND REALISTIC ACCOMMODATION

OF THE INTERESTS INVOLVED.

--THESE ARE NOT THE ONLY OUTSTANDING ISSUES REGARDING DEEP SEABED MINING. HOWEVER, AS THE EVENSEN GROUP MEETING IN GENEVA WILL BE FOCUSING ON THE SYSTEM OF EXPLOITATION, WE HAVE TAKEN THIS OPPORTUNITY TO PRESENT OUR VIEWS PRIMARILY ON THAT SUBJECT.

--OUR LOS REPRESENTATIVE LOOKS FORWARD TO DISCUSSIONS WITH YOUR REPRESENTATIVES AND OTHERS IN GENEVA.

5. IT IS QUITE POSSIBLE THAT THE ARAB GROUP WILL DISCUSS CERTAIN OTHER ISSUES, INCLUDING THOSE RELATING TO COMMITTEES II AND III AND THE COMPULSORY SETTLEMENT OF DISPUTES. WE BELIEVE THAT THERE IS BROAD AGREEMENT IN THE CONFERENCE ON THE ESTABLISHMENT OF A 200 MILE ECONOMIC ZONE IN WHICH THE COASTAL STATE WOULD HAVE JURISDICTION OVER RESOURCES AND CERTAIN OTHER SPECIFIED MATTERS. THERE IS ALSO WIDESPREAD RECOGNITION (AND THE U.S. SUPPORTS) THAT IN ORDER TO REACH AGREEMENT THERE SHOULD BE A PRECISELY DEFINED OUTER LIMIT OF THE CONTINENTAL SHELF WHERE IT EXTENDS BEYOND 200 MILES COUPLED WITH REVENUE SHARING FROM MINERAL RESOURCE EXPLOITATION COMMENCING AT 200 MILES FOR THE BENEFIT OF LESS DEVELOPED COUNTRIES. (MANY MEMBERS OF THE ARAB GROUP HAVE FAVORED LIMITING COASTAL STATE

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JURISDICTION OVER THE RESOURCES OF THE MARGIN TO 200 MILES.)

6. THERE IS ALSO BROAD AGREEMENT ON THE REGIME OF INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA AND TRANSIT PASSAGE THROUGH, OVER AND UNDER STRAITS USED FOR INTERNATIONAL NAVIGATION. THE STRAITS ARTICLES IN THE RSNT ARE THE ONLY VIABLE BASIS FOR AGREEMENT (REF B). THE MAJOR OUTSTANDING ISSUE FOR THE U.S. IN COMMITTEE II RELATES TO THE LEGAL STATUS OF THE ECONOMIC ZONE. WE BELIEVE THAT THE ECONOMIC ZONE MUST CONTINUE TO

HAVE THE STATUS OF HIGH SEAS, ALTHOUGH MANY STATES OPPOSE THAT POSITION.

7. THE FOLLOWING POINTS SHOULD BE MAKE TO HOST GOVERNMENT:

--WE BELIEVE THAT THE ECONOMIC ZONE MUST BE HIGH SEAS. THIS DOES NOT DEROGATE FROM THE JURISDICTION OF THE COASTAL STATE OVER RESOURCES AND CERTAIN OTHER MATTERS SPECIFIED IN THE TREATY.

--THIS APPROACH IS A FAIR AND REALISTIC ACCOMMODATION AMONG STATES.

--WE BELIEVE THAT THIS IS CONSISTENT WITH THE INTEREST OF THE HOST GOVERNMENT. THIS APPROACH MAKES IT ABUNDANTLY CLEAR THAT THE COASTAL STATE HAS BROAD RESOURCE JURISDICTION AS WELL AS JURISDICTION OVER CERTAIN OTHER MATTERS SPECIFIED IN THE TREATY BUT THAT THE INTERNATIONAL COMMUNITY INTEREST IN FREEDOM OF THE HIGH SEAS FOR OTHER PURPOSES IS PROTECTED. THIS IS PARTICULARLY IMPORTANT NOT ONLY FOR COUNTRIES SUCH AS THE U.S. BUT ALSO FOR COUNTRIES BORDERING ON MORE LIMITED SEAS, INCLUDING MOST ARAB
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STATES. THE NEED TO BE ABLE TO MOVE FREELY ON THE SEAS IS CRITICAL TO THE WORLD'S TRADE AND SECURITY. IT IS NOT SUFFICIENT TO VIEW THE PROBLEM AS ONE ONLY RELATING TO ONE'S OWN OFF-SHORE ZONE, IT IS NECESSARY TO CONSIDER THE IMPACT IN BROAD AREAS OF THE WORLD THAT INCLUDE THE MAJOR TRADE ROUTES.

8. COMMITTEE III--MARINE POLLUTION AND MARINE SCIENTIFIC RESEARCH. THERE IS BROAD AGREEMENT ON MARINE POLLUTION WITH THE IMPORTANT EXCEPTION RELATING TO COASTAL STATE COMPETENCE TO SET VESSEL CONSTRUCTION, DESIGN, EQUIPMENT AND MANNING STANDARDS HIGHER THAN THE INTERNATIONAL

STANDARDS IN THE TERRITORIAL SEA. THE U.S. SUPPORTS SUCH A COASTAL STATE RIGHT. ON SCIENTIFIC RESEARCH THERE IS DEEP DIVISION IN THE CONFERENCE, WITH MANY STATES FAVORING BROAD COASTAL STATE COMPETENCE TO REQUIRE CONSENT FOR ANY SCIENTIFIC PROJECT IN THE ECONOMIC ZONE. WE OPPOSE THAT POSITION. THE FOLLOWING POINTS SHOULD BE MADE REGARDING RESEARCH IN THE ECONOMIC ZONE:

--THE QUESTION OF A REGIME FOR CONDUCTING MARINE SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE IS ONE OF THE MOST IMPORTANT ISSUES REMAINING IN THE LOS NEGOTIATIONS.

--WHILE WE RECOGNIZE THAT THE COASTAL STATE HAS LEGITIMATE INTERESTS IN SCIENTIFIC RESEARCH IN ITS ECONOMIC ZONE, THIS MUST BE BALANCED BY THE BENEFITS OF SUCH RESEARCH TO MANY NATIONS.

--WE CAN AGREE TO GIVING THE COASTAL STATE A RIGHT OF CONSENT IN SOME CASES SUCH AS SCIENTIFIC RESEARCH DIRECTED AT RESOURCE EXPLOITATION BUT FEEL THAT A GENERAL CONSENT REGIME IS UNNECESSARY AND EXTREMELY HARMFUL TO SCIENTIFIC INTERESTS.
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--FOR ALL SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE, HOWEVER, THE RESEARCHER WOULD BE REQUIRED TO GIVE THE COASTAL STATE ADVANCE NOTICE, A RIGHT TO PARTICIPATE AND SHARE DATA AND SAMPLES, ETC.

--WE BELIEVE THAT THE STATUS OF THE ECONOMIC ZONE AND THE REGIME FOR SCIENTIFIC RESEARCH ARE RELATED, BUT WE BELIEVE THAT COASTAL STATE INTERESTS ARE CLEARLY PROTECTED UNDER OUR VIEWS ON BOTH ISSUES.

9. COMPULSORY SETTLEMENT OF DISPUTES (CDS). THERE ARE BOUND TO ARISE AFTER CONCLUSION OF A TREATY DISPUTES REGARDING ITS APPLICATION AND INTERPRETATION. THE U.S. SUPPORTS PEACEFUL AND COMPULSORY SETTLEMENT OF DISPUTES PROVISIONS IN THE LOS TREATY. WE NOTE THAT THERE IS BROAD SUPPORT FOR THE CONCEPT AT THE CONFERENCE. WE WILL BE SENDING COPIES OF THE PRESIDENT OF THE CONFERENCE'S NEW TEXT ON CDS TO ALL POSTS IN THE NEAR FUTURE. AN INITIAL REVIEW OF THE TEXT INDICATES THAT

IT IS A DECIDED IMPROVEMENT ON THE PREVIOUS VERSION AND REPRESENTS AN ATTEMPT TO ACCOMMODATE THE CONCERNS OF STATES AT THE CONFERENCE. IT IS A GOOD BASIS FOR FUTURE NEGOTIATIONS.

10. WE ASSUME ADDRESSEE POSTS HOST GOVERNMENTS ARE

INVITED TO SUBJECT MEETING. SHOULD THAT NOT BE THE
CASE OR SHOULD EMBASSIES DEEM IT UNDESIRABLE TO
APPROACH HOST GOVERNMENT FOR OTHER REASONS PLEASE
CABLE DEPARTMENT ASAP. WE REGRET SHORT NOTICE BUT IT
IS IMPORTANT THAT APPROACH TO HOST GOVERNMENT BE MADE
THIS WEEK-END, IF AT ALL POSSIBLE.
KISSINGER

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